

TITLE 3
Finance and Public Records

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CHAPTER 1
Finance

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**SEC. 3-1-1 FEE FOR RETURNING CHECKS WITH INSUFFICIENT FUNDS;
REIMBURSEMENT OF COLLECTION COSTS.**

- (a) There shall be a Twenty Five Dollar (\$25.00) fee for processing checks made payable to the City that are returned because of insufficient funds in the account in question. (Amended 08-16-16, Ord. RC-371)
- (b) Collection costs and attorneys fees shall be added to the principal amounts of unpaid bills owed to the City that are placed with collection agencies.

SEC. 3-1-2 DUPLICATE TREASURER'S BOND ELIMINATED.

- (a) **Bond Eliminated.** The City of Delavan elects not to give the bond on the City Treasurer provided for by Sec. 70.67(1), Wis. Stats.
- (b) **City Liable For Default of Treasurer.** Pursuant to Sec. 70.67(2), Wis. Stats., the City shall be obligated to pay, in case the City Treasurer shall fail to do so, all state and county taxes required by law to be paid by such City Treasurer to the County Treasurer.

State Law Reference: Section 70.67, Wis. Stats.

SEC. 3-1-3 CITY BUDGET.

- (a) **Departmental Estimates.** On or before October 1 of each year, each officer, department, board and committee shall file with the City Administrator an itemized statement of disbursements made to carry out the powers and duties of such officer, department, board or committee during the preceding fiscal year, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department, board or committee during such year, and of the conditions and management of such fund; also detailed estimates of the same matters for the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the City and shall be designated as "Departmental Estimates," and shall be as nearly uniform as possible for the main division of all departments.
- (b) **Consideration of Estimates.** The Finance Committee shall consider such departmental estimates in consultation with the department head and shall then determine the total amount to be recommended in the budget amount for such department or activity.
- (c) **Proposed Budget.** On or before October 20, the Finance Committee shall prepare and submit to the Common Council a proposed budget presenting a financial plan for conducting the affairs of the City for the ensuing calendar year. The budget shall including the following information:
- (1) The expense of conducting each department and activity of the City for the ensuing fiscal year and last preceding fiscal year.
 - (2) An itemization of all anticipated income from the City from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the City from each of the same or similar sources for the last preceding and current fiscal year.
 - (3) An estimate of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.
 - (4) Such other information as may be required by the Common Council and by state law.
- (d) **Copies of Budget.** The Finance Committee shall provide a reasonable number of copies of the budget summary thus prepared for distribution to citizens.
- (e) **Hearing.**
- (1) The Finance Committee shall submit to the Council at the time the annual budget is submitted the draft of an appropriation resolution providing for the expenditures proposed for the ensuing fiscal year. Upon the submission of the proposed appropriation resolution to the Council, it shall be deemed to have been regularly introduced therein.
 - (2) A summary of such budget and notice of the time and place where such budget and detail is available for public inspection and notice of the time and place for holding the public hearing thereof shall be published in the official newspaper of the City as a Class I notice at least fifteen (15) days prior to the time of such public hearing.
 - (3) Not less than fifteen (15) days after the publication of the proposed budget and the notice of hearing thereof, the public hearing shall be held at the time and place stipulated, at which time any resident or taxpayer of the City shall have an opportunity to be heard on the proposed budget. The budget hearing may be adjourned from time to time.
 - (4) State Law Reference: Sections 62.12 and 65.90, Wis. Stats.

SEC. 3-1-4 CHANGES IN BUDGET.

Upon written recommendation of the Finance Committee, the Council may at any time, by a two-thirds (2/3) vote of the entire membership, transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of such transfer shall be given by publication within ten (10) days thereafter in the official newspaper of the City.

State Law Reference: Sec. 65.90(4), Wis. Stats.

SEC. 3-1-5 CITY FUNDS TO BE SPENT IN ACCORDANCE WITH APPROPRIATION.

No money shall be drawn from the treasury of the City, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual appropriation in the adopted budget or when changed as authorized by Section 3-1-4 of this Chapter. At the close of each fiscal year, any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but appropriations may be made by the Common Council, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

SEC. 3-1-6 FISCAL YEAR.

The calendar year shall be the fiscal year.

SEC. 3-1-7 PUBLIC DEPOSITORIES.

The Common Council shall designate by resolution the public depository or depositories within this state within which City funds shall be deposited, and when the money is deposited in such depository in the name of the City, the City Treasurer and bondsman shall not be liable for such losses as are defined by state law. The City Treasurer shall invest and the interest arising therefrom shall be paid into the City Treasury. Pursuant to state law, designated public depositories shall be required to pledge U.S. Treasury Notes equal in amount to any uninsured balance on the City's deposit.

State Law Reference: Chapter 34 and Sec. 62.12(7), Wis. Stats.

SEC. 3-1-8 CLAIMS AGAINST CITY.

(a) **Payment of Claims.** In addition to, and in lieu of the other methods provided by statute for the payment of claims against the City, financial claims against the City may be paid from the City Treasury after the City Clerk shall have audited and approved each such claim as a proper charge against the Treasury and shall have endorsed his approval thereon, after having determined that the following conditions have been complied with:

- (1) That funds are available therefor, pursuant to the budget approved by the Council;
- (2) That the item or service covered by such claim has been duly authorized by the proper official, department head, or board or commission, and approved by the City Administrator;

- (3) That the item or service has been actually supplied or rendered in conformity with such authorization;
 - (4) That the claim is just and valid, pursuant to law. The City Clerk may require the submission of such proof and evidence to support the foregoing as in his discretion he may deem necessary.
- (b) **Payment of Regular Wages or Salaries.** Regular wages or salaries of City officers and employees shall be paid by payroll, verified by the proper City official, department head, board or commission submitted to the City Treasurer in time for payment on the regular pay day.

SEC. 3-1-9 TEMPORARY INVESTMENT OF FUNDS NOT IMMEDIATELY NEEDED.

The City Treasurer may invest any City funds not immediately needed, pursuant to Sections 66.04(2) and 219.05, Wis. Stats.

State Law Reference: Sections 66.04(2) and 219.05, Wis. Stats.

SEC. 3-1-10 FACSIMILE SIGNATURES.

In lieu of the personal signatures of the Mayor, there may be affixed on order checks the facsimile signatures of such persons adopted by them and approved by the Common Council, but the use of the facsimile signature shall not relieve such official from any liability to which he is otherwise subject, including the unauthorized use thereof.

SEC. 3-1-11 RECEIVING MONEY; RECEIPT FOR SAME.

- (a) The City Treasurer or his deputies shall not receive any money into the Treasury from any source except on account of taxes levied and collected during the fiscal year for which he or she may then be serving, without giving a receipt therefor in the manner specified by the Common Council. Tax receipts may be issued upon request.
- (b) Upon the payment of any money (except for taxes as herein provided), the City Treasurer shall make out a receipt in duplicate for the money so received. The Treasurer shall charge the amount thereof to the Treasury and credit the proper account. The payment of the money to any receiving agent of the City or to the City or to the Treasurer shall be safeguarded in such manner as the Common Council shall direct.
- (c) Payment by Debit or Credit Card. Payments to the City may be made by debit or credit card. The City, by resolution of the Common Council adopted from time to time, may establish a schedule of charges associated with the use of said debit or credit cards. Said charges for use shall be assessed and collected at the time the payment is made. (Amended 04-12-00, RC-96)
- (d) Protest of Payment. If a personal check tendered to make any payment to the City is not paid by the bank on which it is drawn, or if a demand for payment under a debit or credit card transaction is not paid by the bank upon which a demand is made, the person or entity by whom the check or debit card was tendered shall remain liable for the payment and for all legal penalties and additions, including a charge set by the Common Council by resolution from time to time which shall be comparable to charges for unpaid drafts made by establishments in the private sector. In addition, the City official or officer to whom the refused personal check or credit or debit card was made may

provide any information or evidence relating to a possible crime to the City Police Department. If any license or permit has been granted or issued upon any such personal check or debit or credit card transaction, the license or permit shall be subject to cancellation for the refusal to pay said personal check or debit or credit card transaction. (Amended 04-12-00, RC-96)

State Law Reference: Sec. 66.113, Wis. Stats.

SEC. 3-1-12 STATEMENT OF REAL PROPERTY STATUS (amended 1/13/98 Ordinance RC-25) (amended 10/12/04 Ordinance RC-191)

The Treasurer is authorized to prepare a Statement of Real Property Status form to be used to provide information often requested for transfers of real property such as the amount of outstanding special assessments, deferred assessments, changes in assessments, amount of taxes, outstanding water and sewer bills, current water and sewer bills, contemplated improvements, unpaid forfeitures under the building and health codes and similar information. Any such information sought shall be provided to the person requesting it on said form. A minimum of ten (10) business days is required for preparation of a statement of real property status. There shall be a Twenty-Five Dollar (\$25.00) fee for compiling such information. If said information is required in a shorter time frame, (i.e. less than 10 business days) the fee shall be One Hundred Dollars (\$100.00) for the compiling of such information.

SEC. 3-1-13 ACCOUNTS RECEIVABLE BILLING PROCEDURES.

Billings by the City may be paid within thirty (30) days after billing without interest. Thereafter, interest may be charged at the rate of one and one-half percent (1-1/2%) per month or any fraction thereof, until the following fifteenth (15th) day of November. Bills not paid on or before the fifteenth (15th) day of November shall have added to the total amount due one and one-half percent (1-1/2%) of said charges shall be entered on the tax roll as a special charge and become a lien upon real estate.

SEC. 3-1-14 ANNUAL AUDITS.

A firm of certified public accountants shall be contracted each year by the City, subject to the confirmation of the Common Council to conduct a detailed audit of the City's financial transactions and its books, and to assist City staff in the management of the City's financial affairs, including the City's public utilities. These auditors shall be employed on a calendar-year basis. The books audited may, in addition to the City financial records of the office of the City Clerk, include the City Treasurer's books, the City's public utilities, the Water and Sewage Commission's books, Delbrook Golf Course records, Police Department records, and any other books of any boards, commission, officers or employees of the City handling City moneys.

SEC. 3-1-15 PURCHASES. (Repealed 3/10/98 Ordinance RC-31) - replaced by Purchasing Manual

SEC. 3-1-16 CITY CAPITAL EXPENDITURES. (Ord RC-263 5/15/09 Adopted 4/14/09, vetoed by Mayor Nieuwenhuis 4/17/09, overridden by the Council on 5/12/09)

1. That Section 3-1-16 of the Municipal Code be, and the same is hereby created to read as follows:

"Prior to the start of any physical construction of any municipally financed project, whether in whole or in part, other than any street, road, or highway expenditure aggregating three million dollars (\$3,000,000.00) or more, net of any grants or capital contributions received or to be received excluding TIF District funds, the Common Council shall submit to the electorate a binding referendum for approval. Failure of the referendum shall preclude the City from proceeding with the project. The Council may choose to not hold the referendum only by unanimous roll call vote. The wording of any referendum shall provide the specific purpose, location and cost of the project. Nothing in this provision shall be construed to preclude the City from exercising its role in the planning or design of such publicly financed projects(s). The City shall be precluded from intentionally dividing up a project so that the total amount is less than three million dollars (\$3,000,000.00). The capital expenditure aggregate of three million dollars (\$3,000,000.00) or more for a project shall be increased annually in January by the same percentage as the increase in the national Consumer Price Index as determined by the United States Department of Labor for the preceding calendar year."

CHAPTER 2

Special Assessments

3-2-1	Common Council May Levy Special Assessments
3-2-2	Resolution and Report Required
3-2-3	Costs That May Be Paid By Special Assessment
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3-2-5	Notice of Proposed or Approved Project
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3-2-8	Council's Power to Amend, Cancel or Confirm Special Assessment
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3-2-10	Appeals; Appealed Assessments Payable When Due
3-2-11	Special Assessment a Lien on Property
3-2-12	Special Charges Permissible
3-2-13	Miscellaneous Provisions
3-2-14	Sanitary Sewers and Water Mains
3-2-15	Sidewalks and Driveway Approaches
3-2-16	Curb and Gutter (Amended 04/14/98 Ord. RC-39)
3-2-17	Improvements Benefiting Properties Outside Corporate Limits (Amended 01/13/04, Ord. RC-174) (Amended 12/11/07 Ord. R-237) (Amended 11/11/2008, Ord. 259)
3-2-18	Policies for Special Situations

SEC. 3-2-1 COMMON COUNCIL MAY LEVY SPECIAL ASSESSMENTS.

- (a) The City of Delavan, by resolution of its Common Council, may levy and collect special assessments upon property in a limited and determinable area for special benefits conferred upon such property by any municipal work or improvement and may provide for the payment of all or any part of the cost of the work or improvement. In addition to other methods approved by law, special assessments for any public work or improvement or any special charge for current services may be levied in accordance with the provisions of this Chapter.
- (b) The amount assessed against any property for any work or improvement which does not represent an exercise of the police power shall not exceed the value of the benefits accruing to the property therefrom, and for those representing an exercise of the police power, the assessment shall be upon a reasonable basis as determined by the Common Council.
- (c) The favored procedure in the City for proceeding with making specially assessable public improvements as generally set forth in this Chapter is not intended in any way to disregard or to bar proceeding under other methods provided by law for making of public improvements and for the levying of assessments therefore. Nor is this Chapter intended to be an exhaustive, detailed recodification of the state law under said statutory section. Detailed requirements still require reference to said statutory section and the subsections thereunder. The purpose hereof is to generally define and establish local procedures.
- (d) The total cost of all improvements to be constructed in the City of Delavan shall be assessed equally on a front-foot basis unless otherwise specified or in those instances where the project may be of an unusual nature. If the cost of installing a particular improvement in some sections of the City would involve expenditures, which would be inordinate or in excess of what could normally be expected, the Council may review the situation or project separately to decide

what procedure would be followed and may in unusual or exceptional cases modify the assessments if the facts and conditions may warrant. Cost figures shall be determined by the total cost of construction, material, engineering, legal, inspection, and any other cost attributed to the improvements.

State Law Reference: Section 66.0701, Wis. Stats.

SEC. 3-2-2 RESOLUTION AND REPORT REQUIRED.

- (a) Public improvements carried out pursuant to Section 66.0703, Wis. Stats. and this Chapter shall be initiated by a preliminary resolution presented to the Council by the Director of Public Works, which resolution and report shall declare the Council's intention to exercise its assessment powers for such municipal purpose(s), describe the same, the limits of the proposed assessment district, the number of installments in which special assessment may be paid or that the number of installments will be determined at hearing thereon, and direct the Director of Public Works to make a report thereon. After adoption of such preliminary resolution by the Common Council, copies thereof shall be forwarded by the City Clerk to the Director of Public Works and, where applicable, the Water and Sewage Commission. The City Clerk shall forthwith, after adoption of such preliminary resolution, obtain a list of the names and addresses of all interested persons, if with reasonable diligence their names and addresses may be obtained, and forward the same to the Director of Public Works. Upon receipt of copy of such preliminary resolution, the Director of Public Works shall prepare the report thereon.
- (b) The report required by Subsection (a) shall consist of:
 - (1) Preliminary or final plans and specifications.
 - (2) An estimate of the entire cost of the proposed work or improvement.
 - (3) An estimate, as to each parcel of property affected, have:
 - a. The assessment of benefits to be levied.
 - b. The damages to be awarded for property taken or damages.
 - c. The net amount of such benefits over damages or the net amount of such damages over benefits.
 - (4) A statement that the property against which the assessments are proposed is benefited, where the work or improvements constitute an exercise of the police power. In such case, the estimates required under Subsection (3) shall be replaced by a schedule of the proposed assessments.
 - (5) A copy of the report when completed shall be filed with the City Clerk for public inspection.
- (c) When the Common Council determines by resolution that the hearing on the assessments be held subsequent to the completion of the work or improvement or rendering of the service, the report required by Sec. 66.0703(5), Wis. Stats., and Subsections (a) and (b) above shall contain a statement of the final cost of the work, service or improvement in lieu of an estimate of the cost.

SEC. 3-2-3 COSTS THAT MAY BE PAID BY SPECIAL ASSESSMENT.

The cost of any work or improvement to be paid in whole or in part by special assessment on property may include the direct and indirect cost thereof, the damages occasioned thereby, the interest on bonds or notes issued in anticipation of the collection of the assessments, a reasonable charge for the services of the administrative staff of the City and the cost of any architectural, engineering and legal services, and any other item of direct or indirect cost which may reasonably be attributed to the proposed work

Or improvement. The amount to be assessed against all property for any such proposed work or improvement shall be apportioned among the individual parcels in the manner designated by the Common Council.

SEC. 3-2-4 EXEMPTIONS; DEDUCTIONS.

If any property deemed benefited shall by reason of any provision of law be exempt from assessment therefor, such assessment shall be computed and shall be paid by the City.

SEC. 3-2-5 NOTICE OF PROPOSED OR APPROVED PROJECT.

- (a) **Notice Requirements.** On the completion and filing of the report and final resolution with the City Clerk required in Section 3-2-2(b)(5) of this Chapter, the City Clerk or Director of Public Works shall prepare a Notice of Hearing, which notice shall comply with Sec. 66.0703(7)(a), Wis. Stats., and state the nature of the proposed or approved work or improvement, the general boundary lines of the proposed assessment district and the place and time at which the report may be inspected. In publishing the Notice of Hearing, the City Clerk shall set the place and time at which all interested persons, their agents or attorneys may appear before the Common Council or Committee thereof and be heard concerning the matters contained in the preliminary resolution and report. Such notice shall be signed by the City Clerk who shall cause the same to be published at least once in the official newspaper and shall mail a copy of such notice at least ten (10) days before the hearing to every interested person whose post office address is known or can be ascertained with reasonable diligence. The hearing shall commence not less than ten (10) days and not more than forty (40) days after the publication or mailing of said notice.
- (b) **Waiver of Notice, Assessments Under.** The Council may, without any notice of hearing, levy and assess the whole or any part of the cost of any municipal work or whole or any part of the cost of any municipal work or improvement as a special assessment upon the property specifically benefited thereby whenever notice and hearing thereon is in writing waived by all the owners of property affected by such special assessment.

SEC. 3-2-6 COUNCIL ACTIONS AFTER HEARING.

- (a) After the hearing, the Common Council may:
 - (1) Approve, disapprove, modify or re-refer the report to the Director of Public Works with such directions as it deems necessary to change the plans and specifications as to accomplish a fair and equitable assessment.
 - (2) Continue the public hearing, preliminarily approve plans and specifications and, if the project requires advertising for bids, authorize and direct the advertisement therefor with a date certain for consideration and taking action thereon, inclusive of action on said report and action on final resolution.
- (b) If an assessment be made against any property and an award of compensation or damage be made in favor of the property, the Common Council shall assess only the difference between such assessment of benefits and the award of compensation or damage.

- (c) (1) If the work or improvement has not been previously authorized or approved, the Common Council shall approve the work or improvement and by resolution direct that the same be done and paid for in accordance with the report finally approved.
- (2) If the work or improvement has been approved by the Common Council or work commenced or completed prior to the filing of the report or prior to the hearing, then the Common Council shall by resolution confirm the report as made or modified and provide for payment in whole or in part by assessment.
- (d) Upon adoption of said final resolution, the City Clerk shall cause a copy thereof to be published for one (1) week in the official newspaper and shall mail a copy thereof to every interested person whose post office address is known, or can be ascertained with reasonable diligence.
- (e) After the publication of the final resolution, any work or improvement provided for and not yet authorized shall be deemed fully authorized and all awards of compensation or damage and all assessments made shall be deemed duly and properly made, subject to the right of appeal by Section 66.0703(12), Wis. Stats., or any other applicable provision of law.
- (f) As soon as the assessable cost of such work or improvement is finalized, the City Clerk shall issue respective special assessment certificates for each property affected and specifying the manner in which payment is to be made and shall send copy of the respective assessment affecting each property to each owner's post office address that is known or can be obtained with reasonable diligence.

SEC. 3-2-7 COMBINED ASSESSMENTS.

If more than a single improvement is undertaken, the Common Council may combine the assessments as a single assessment on each property affected except that the property owner may object to any one or more of said improvements.

SEC. 3-2-8 COUNCIL'S POWER TO AMEND, CANCEL OR CONFIRM SPECIAL ASSESSMENT.

If, after completion or after the receipt of bids, the actual cost of any work or improvement is found to vary materially from the original estimate, or the assessment is void or invalid for any reason, or if the Common Council determines to reconsider an assessment, it is empowered, after giving notice as required in Section 3-2-5 to amend, cancel or confirm any prior assessment; and notice of this amending, canceling or confirming shall be given by the City Clerk as provided in Section 3-2-6 of this Chapter.

SEC. 3-2-9 WHERE COST OF IMPROVEMENT IS LESS THAN ASSESSMENT.

If the cost of the work or improvement is less than the assessment levied, the Common Council without notice or hearing shall reduce each assessment proportionately. If the assessment has been paid either in part or in full, the City shall apply such excess for future projects.

SEC. 3-2-10 APPEALS; APPEALED ASSESSMENTS PAYABLE WHEN DUE.

- (a) Any person against whose property a special assessment is levied under this Chapter may appeal therefrom in the manner prescribed by Section 66.0703(12) of the Wisconsin Statutes, as amended, within ninety (90) days of the date of the final determination of the Common Council.
- (b) Pursuant to Section 66.0703(12)(f), Wis. Stats., it shall be a condition to the maintenance of any appeal that any assessment appealed shall be paid when due and payable, and upon default in payment any such appeal shall be dismissed.

SEC. 3-2-11 PAYMENT OF SPECIAL ASSESSMENTS; SPECIAL ASSESSMENT A LIEN ON PROPERTY.

(a) **Payment of Special Assessments.**

- (1) Without interest. Upon receipt of copy of special assessment certificate, any person may pay the same in full, without interest, if paid to the City Treasurer within the grace period therein allowed and as allowed in the final resolution.
 - (2) After grace period. If any special assessment, or any part thereof, remains unpaid following the running of the grace period specified for payment without interest, at time of preparation of the first tax roll thereafter the same, together with interest computed thereon at the interest rate established in said final resolution and in said certificates computed from the date of levy (i.e., date of final resolution) or the finalizing of assessable costs, whichever is later, shall be entered in such tax roll in such manner as directed in said final resolution and certificate; thereafter, if the same be payable in installments, subsequent installments together with interest at said rate computed on declining balance shall be entered in subsequent tax rolls until fully paid. This provision is in no way intended to prohibit the prepayment of the balance owing at any time on principal together with interest to date of payment only.
- (b) **Assessment a Lien.** Pursuant to Subsection (13) of Sec. 66.0703, Wis. Stats., any special assessment levied under this Chapter shall be a lien on the property against which it is levied on behalf of the City. The Common Council shall provide for the collection of such assessments and may establish penalties for payment after the due date. The Common Council shall provide that all assessments not paid by the date specified shall be extended upon the tax roll as a delinquent tax against the property and all proceedings in relation to the collection of such delinquent taxes shall apply to such assessment, except as otherwise provided by statute.

SEC. 3-2-12 SPECIAL CHARGES PERMISSIBLE.

- (a) In addition to all other methods provided by law, special charges for current services may be imposed by resolution by the Common Council by allocating all or part of the cost of the property served. Such resolution setting forth the property location, the current service rendered by the City and the special charge therefor or cost thereof. Such resolution for special charges may include snow and ice removal, weed elimination, street sprinkling oiling or tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, sewer and water service and tree care or removal. The provision for notice of such charges shall be optional with the Common Council except that in the case of street, sidewalk, curb or gutter repair, a Class 1 notice published in the official City newspaper

- at least twenty (20) days before the hearing or proceeding and a copy of such notice mailed to every interested person whose post office address is known, at least ten (10) days before the hearing or proceeding. Such notice shall specify that on a certain date a hearing will be held by the Common Council as to whether the service in question shall be performed at the cost of the property owner.
- (b) Special charges for current services shall not be payable installments. If not paid within the period fixed by the Common Council in said resolution, such delinquent special charges, pursuant to Section 3-2-11, shall become a lien on said property as of the date of such delinquency and shall automatically be extended upon the current or next tax roll as a delinquent tax against the property, as provided by Section 66.0627 of the Wisconsin Statutes, and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special charge. Notice of special charges for current services need not be given except as required by Section 66.0627 of the Wisconsin Statutes, as amended.
 - (c) Section 3-2-2(a) of this Chapter shall not be applicable to proceedings under this Section.

State Law Reference: Section 66.0627, Wis. Stats.

SEC. 3-2-13 MISCELLANEOUS PROVISIONS.

- (a) If any assessment or charge levied under this Chapter is invalid because such Statutes are found to be unconstitutional, the Common Council may thereafter reassess such assessment or charge pursuant to the provisions of any applicable law.
- (b) The Common Council may, without notice or hearing, levy and assess all or any part of the cost of any work or improvement upon the property benefited if notice and hearing is waived in writing by property owners affected.
- (c) Notwithstanding any other provision of law, or this or other ordinance or resolution, it is specifically intended and provided by this Chapter that the City may levy special assessments for work or improvement against the property benefited before the approval of the work plans and specifications, contracting for the work or completing the work or improvement.

SEC. 3-2-14 SANITARY SEWERS AND WATER MAINS.

- (a) **Sanitary Sewers.**
 - (1) The assessment rate will be on a front-foot basis which shall be determined by the total costs of the project, including (but not limited to) engineering, legal, inspection, grading, and the necessary resurfacing, unless another basis is specified by the Director of Public Works.
 - (2) All intersections will be paid by the City on the same basis as the assessed cost (front-foot basis).
 - (3) Should it be deemed necessary to construct any type of force main system, not limited to but including lift stations, etc., in any area in the City, that property benefited by such installation shall be assessed on an area basis limited to twenty-five percent (25%) of the cost of the project, including (but not limited to) engineering, legal, inspection, administration, grading, and the necessary resurfacing.

- (b) **Force Mains.** Should future annexations to the City of Delavan encompass areas of land which are contiguous to areas of land already within the City limits which have previously had an area cost assessment made on a project pertaining to said lands, the annexor, as a condition precedent to the annexation, shall assume municipal force main and lift station costs over and above any cost assessment made on said previous project, but not to exceed seventy-five percent (75%) of the previous project cost if said annexed property is benefited by the lift stations and force main.
- (c) **Water Mains.**
 - (1) The assessment rate shall be on a front-foot basis for a residential main, which shall be determined on the total cost of the project, including (but not limited to) engineering, legal, inspection, grading, and the necessary resurfacing. The Water and Sewage Commission shall bear the entire cost over and above the required water main size of water mains serving commercial properties shall be determined by the Director of Public Works.
 - (2) All intersections will be paid by the City on the same basis as the assessed cost (front-foot basis).
- (d) **Sewer or Water, Corner Lots.** (see 3-2-18)

SEC. 3-2-15 SIDEWALKS AND DRIVEWAY APPROACHES.

- (a) The costs of the initial installation of concrete sidewalk within the public right-of-ways of all streets shall be allocated 50% to the adjoining property owner(s) and 50% to the City of Delavan, unless the property is tax exempt, in which case it shall be allocated 100% to the adjoining property owner(s).
- (b) The costs of replacement of unsafe, defective, insufficient sidewalk within all public right-of-ways, shall be allocated 50% to the adjoining property owner(s) and 50% to the City of Delavan; when such replacement is ordered by the Common Council of the City of Delavan.
- (c) The costs of replacement of safe, non-defective, sufficient sidewalk, within the public right-of-ways, shall be allocated 100% to the City of Delavan; when such replacement is ordered by the Common Council of the City of Delavan.
- (d) The City of Delavan will assume 100% of the costs associated with crosswalk repair or replacement.
- (e) The Common Council may waive the cost allocations if a proposed project is eligible for Federal, State or other funding sources.

Cross-Reference: Sections 6-2-2 and 6-3-1.

SEC. 3-2-16 CURB AND GUTTER. (amended 4/14/98 Ordinance RC-39)

- (a) One hundred percent (100%) of the cost of repair and replacement curb and gutter shall be borne by the City of Delavan. (repealed and recreated 4/14/98 Ordinance RC-39)
- (b) The owner of the property benefited shall pay one hundred percent (100%) of the cost of original, new curb and gutter.

SEC. 3-2-17 IMPROVEMENTS BENEFITING PROPERTIES OUTSIDE CORPORATE LIMITS. (Amended 12/11/07 Ord. 237)

- (a) **Intent.** It is the intention of the City that the normally specially assessable costs, direct and indirect, of public works improvements made at and along the corporate limits which are not assessable, or are only partially so, at the time of making said improvements, by reason of the properties, or some of them, which would ultimately benefit thereby being located without the corporate limits [and for which permission for assessment may not have been sought and has not been obtained from the town board(s) of the township(s) wherein such properties are located] may ultimately be recovered at the time such benefits would be realizable by such properties upon annexation to the City whether by special assessments then levyable or as part of the consideration in connection with annexation and pre-annexation agreement therefore.
- (b) **Documentation.** In accordance with the intent expressed in Subsection (a) of this Section, the following public works improvement projects and the respective outstanding costs thereof, exclusive of interest, that may ultimately be recovered therefore are documented as follows
- (1) Water main extension on Sugar Creek Street installed in 1977, Project 77-338, costs to be recovered from properties on west side of said road from City limits as they existed on January 1, 1978, northerly a distance of eight hundred seven (807) feet: Eleven Thousand Eight Hundred Ninety-six and 71/100 Dollars (\$11,896.71).
 - (2) Sanitary sewer extension on Sugar Creek Street installed in 1978, Project 78-341, costs to be recovered from properties on west side of said road from City limits as they existed on January 1, 1978, northerly a distance of six hundred (600) feet: Eleven Thousand Eight Hundred Fifty-one and 06/100 Dollars (\$11,851.06).*
 - (3) ~~Water main extension on Borg Road (Deleted 01/13/04, Ord. RC-174)~~
 - (4) Water main extension on Mound Road from Hallberg Street to a point eight hundred twenty-nine (829) feet west, installed or to be installed in 1980, Project 79-354; and from a point eight hundred twenty-nine (829) feet west of Hallberg Street to Racine Street installed in 1973, Project 73-298, costs to be recovered from properties on north side of said road: Seven Thousand Seven Hundred Ninety and 53/100 Dollars (\$7,790.53) and Two Thousand Four Hundred Fifty-eight and 12/100 Dollars (\$2,458.12).*
 - (5) Sanitary sewer extension on Mound Road installed in 1973, Project 73-298, costs to be recovered from properties on north said of said road from a point eight hundred twenty-nine (829) feet west of Hallberg Street to Racine Street: Five Thousand Six Hundred Seventeen and 38/100 (\$5,617.38).*
 - (6) ~~Sanitary sewer extension, Project 5824, (Deleted 01/13/04, Ord. RC-174)~~
 - (7) Sanitary sewer extension, Project 73-308, from east end of Geneva Street at Springs Park westerly along easements and Creek Road to Turtle Creek Drive, and Project 73-306, from Creek Road to Birchwood Drive, installed in 1974; costs to be recovered from properties outside the corporate limits as they existed on January 1, 1975, and described as that area bounded on the west by Lawson School Road, on the south by S.T.H. 15, and on the east by Elm Ridge Road to its intersection with C.T.H. "X;" thence by the centerline of C.T.H. "X" to its intersection with the corporate limits; thence westerly and northerly along the corporate limits to their intersection with a meander line at the northeast corner of parcel UP-190A which lies north of S.T.H. 11; thence westerly along said meander line and the northerly and westerly boundary of Hiemstra's Subdivision to S.T.H. 11; thence northwesterly along S.T.H. 11 to Lawson School Road; said area is further depicted on a drawing by Crispell-Snyder, Inc., dated January 18, 1980, File No. F-335; costs to be

- recovered from properties within the area lying north of the ridge line and west of the corporate limits, containing approximately one hundred seventy-nine and eight-tenths (179.8) acres, Twenty Thousand Four Hundred Ninety-four and 18/100 (\$20,494.18); and from those properties lying south of the ridge line and the corporate limits containing approximately two hundred one and seven-tenths (201.7) acres, Fourteen Thousand Seven Hundred Forty-five and 40/100 Dollars (\$14,745.40).*
- (8) Sanitary sewer extension, Project 73-308, from east end of Geneva Street at Springs Park westerly along easements to C.T.H. "X," installed in 1974, costs to be recovered from properties bounded on the west by Elm Ridge Road; on the north by C.T.H. "X" and the north line of Section 24; on the east by the corporate limits and on the south by the Chicago, Milwaukee, St. Paul & Pacific Railroad, and including a portion of Parcel UP-128, containing fifty-eight (58) acres in total: Eighteen Thousand Four Hundred Thirty-eight and 60/100 Dollars (\$18,438.60).*
- (9) Water main extension on Creek Road installed in 1974, Project 74-310, costs to be recovered from properties on south side of said road from Beloit Street (C.T.H. "X") to Turtle Creek Drive: Five Thousand Six Hundred Eighty-four and 45/100 (\$5,684.45).*
- (10) North side sanitary sewer interceptor, Project 67-222, installed in 1967, along Comus Lake from a point west of Terrace Street to the west line of the cemetery, costs to be recovered from portions of the Southwest 1/4 and Southeast 1/4 of Section 8, lying north of the City limits as they existed on January 1, 1980, and consisting of two hundred (200) acres and/or the equivalent flow therefrom based on single-family residential development: Twenty-two Thousand Four Hundred Twenty-four and 75/100 Dollars (\$22,424.75).*
- (11) Water and sewer laterals installed in 2003, by Project 03-665, costs to be recovered from property tax number;
D-7-8A known as 4103 Dam Road at a cost of Two Thousand One Hundred Forty-eight and 00/100 Dollars (\$2,148.00)*
D-7-8B known as 4111 Dam Road at a cost of Two Thousand Sixty-one and 00/100 Dollars (\$2,061.00)*
D-7-8D known as 4115 Dam Road at a cost of Two Thousand Four Hundred Thirty-three and 00/100 Dollars (\$2,433.00)*
D-7-10A known as 4120 Dam Road at a cost of One Thousand Eight Hundred Thirty-two and 00/100 Dollars (\$1,832.00)*
D-7-8C known as 4119 Dam Road at a cost of Two Thousand Two Hundred Ninety-eight and 50/100 Dollars (\$2,298.50)*
D-7-11 known as 4122 Dam Road at a cost of One Thousand Five Hundred Eighty-nine and 00/100 Dollars (\$1,589.00)*
D-7-8 known as 4125 Dam Road at a cost of Two Thousand One Hundred Fifty-eight and 00/100 Dollars (\$2,158.00)*
D-7-7 known as 4137 Dam Road at a cost of Two Thousand Four Hundred Sixty-seven and 00/100 Dollars (\$2,467.00)* (Amended 01/13/04, Ord. RC-174)
- (12) Water and sewer mains installed in 2007, by Project 07-818, costs to be recovered from property tax number; (Added 12/11/07 Ord. R-237)
D-9-8A known as Bristol substation at a cost of Twelve Thousand Three Hundred Thirty and 96/100 Dollars (\$12,330.96)*
D-9-8B known as 6378 Mound Road at a cost of Thirteen Thousand Two Hundred Thirty Two and 85/100 Dollars (\$13,232.85)*

- D-9-8C** known as 6370 Mound Road at a cost of Eleven Thousand Nine Hundred Six and 11/100 Dollars (\$11,906.11)*
- A-1090-1** known as 6393 Mound Road at a cost of Ten Thousand One Hundred Sixty Four and 00/100 Dollars (\$10,164.00)*
- A-2716-1** known as 1738 Mound Road at a cost of Nine Thousand Seven Hundred Twenty Four and 91/100 Dollars (\$9,724.91)*
- A-2716-2** known as 1756 Mound Road at a cost of Seven Thousand Two Hundred Twenty One and 86/100 Dollars (\$7,221.86)*
- A-3217-1** known as 1849 Hobbs Drive at a cost of One Hundred Twenty Six Thousand Seven Hundred and Sixteen and 00/100 Dollars (\$126,716.00)*
- (13) Water and sewer laterals installed in 2008, by Project 08-838, costs to be recovered from property tax number;
 - D-24-9** known as W7423 Creek Road at a cost of Nine Thousand Seven Hundred Seventy-Three and zero Dollars (\$9,773.00).*
 - D-24-10** known as W7431 Creek Road at a cost of Nine Thousand Seven Hundred Twelve and zero Dollars (\$9,712.00)*
 - D-24-11** known as W7439 Creek Road at a cost of Eight Thousand Five Hundred Nineteen and zero Dollars (\$8,519.00)*
 - D-24-17** known W7505 Creek Road at a cost of Sixteen Thousand Eight Hundred Twelve and zero Dollars (\$16,812.00)*
 - D-24-16** known as W7531 Creek Road at a cost of Eight Thousand Three Hundred Sixty-Nine and zero Dollars (\$8,369.00)*
 - A-1559-1** known as W7544 Creek Road at a cost of Sixteen Thousand Eight Hundred Ninety-Four and zero Dollars (\$16,894.00)*
 - A-4085-1** known as W7545 Creek Road at a cost of Eight Thousand One Hundred Eighty-Two and zero Dollars (\$8,182.00)*
 - A-4085-2** known as W7545 Creek Road at a cost of Eight Thousand One Hundred Eighty-Two and zero Dollars (\$8,182.00)*
 - A-1809-1** known as W7565 Creek Road at a cost of Eight Thousand One Hundred Eight and zero Dollars (8,108.00)* (Added 11/11/2008, Ord. RC-259)

- (c) **Additional Charge.** Projects above noted by asterisk (*) in Subsection (b) of this Section signify that, in addition to the costs shown and interest charges, a charge equal to the "privilege charge" for lateral connection to the existing sanitary sewer shall be due and payable for each such connection upon annexation and/or connection to said sewer, the amount thereof to be the amount as provided for "privilege charge" by City ordinance at the time of such annexation and/or connection.

SEC. 3-2-18 POLICIES FOR SPECIAL SITUATIONS.

In consideration of specially assessing affected properties for direct and indirect costs of public improvements it is deemed desirable that basic policies be established for application to special and recurring situations, not for rigid application but rather each particular situation to be examined and to ascertain whether such policy operates equitably in that instance. Such policies, as developed, shall be listed as follows:

(a) Sewer or Water, Corner Lots. In the case of a parcel of land against which has been levied a special assessment for sanitary sewer or water main laid in one of the streets upon which it abuts, when special assessment is levied for sanitary sewer or water main laid in the other street(s) upon which such corner lot abuts, the City (or Water and Sewage Commission as the case may be) shall assume the share of costs of the first one hundred (100) feet as it would have otherwise been assessed to such lot for the second and for each additional side along which such main(s) are so laid. This provision shall not apply to utility installations within new subdivisions/developments

CHAPTER 3
Public Records

3-3-1	Definitions
3-3-2	Duty to Maintain Records
3-3-3	Legal Custodian(s)
3-3-4	Public Access to Records
3-3-5	Access Procedures
3-3-6	Limitations on Right to Access
3-3-7	Destruction of Records
3-3-8	Preservation Through Microfilm

SEC. 3-3-1 DEFINITIONS.

- (a) "Authority" means any of the following City entities having custody of a City record: an office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.
- (b) "Custodian" means that officer, department head, division head, or employee of the City designated under Section 3-3-3 or otherwise responsible by law to keep and preserve any City records or file, deposit or keep such records in his or her office, or is lawfully in possession or entitled to possession of such public records and who is required by this Section to respond to requests for access to such records.
- (c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.
- (d) "Direct Cost" means the actual cost of personnel plus all expenses for paper, copier time, depreciation and supplies.
- (e) "Actual Cost" means the total cost of personnel including wages, fringe benefits and all other benefits and overhead related to the time spent in search of records.

SEC. 3-3-2 DUTY TO MAINTAIN RECORDS.

- (a) Except as provided under Section 3-3-7, each officer and employee of the City shall safely keep and preserve all records received from his or her predecessor or other persons and required by law to be filed, deposited or kept in his or her office or which are in the lawful possession or

control of the officer or employee or his or her deputies, or to the possession or control of which he or she or they may be lawfully entitled as such officers or employees.

- (b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his or her successor all records then in his or her custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the City Clerk. If a vacancy occurs before a successor is selected or qualifies, such records shall be delivered to and receipted for by the Clerk, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

SEC. 3-3-3 LEGAL CUSTODIAN (S).

- (a) Each elected official is the legal custodian of his or her records and the records of his or her office, but the official may designate the City Clerk to act as the legal custodian.
- (b) Unless otherwise provided in Subsection (c), the City Clerk or the Clerk's designee shall act as legal custodian for the Common Council and for any committees, commissions, boards, or other authorities created by ordinance or resolution of the Common Council. The following offices or authorities shall have as a legal custodian of records the individual so named.

<u>Authority</u>	<u>Designated Legal Custodian</u>
City Assessor's Office	City Assessor
General City Records (including Council records and financial records)	City Clerk
City Administrator's Office	City Administrator
Fire Department	Fire Chief
Municipal Court; Municipal Judge's Office	Clerk of Municipal Court
Police Department	Chief of Police
City Engineer's/Director of Public Works' Office	Director of Public Works
Building Inspections; Zoning	Building Inspector
City Attorney's Office	City Attorney
Police and Fire Commission	City Clerk
Aram Public Library	Chief Librarian

- (c) For every authority not specified in Subsections (a) and (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his or her staff to act as the legal custodian.

- (d) Each legal custodian shall name a person to act as legal custodian in his or her absence or in the absence of his or her designee, and each legal custodian shall send notice of the designated deputy to the City Clerk.
- (e) The City Clerk shall establish criteria for establishing the records system and shall cause the department/office records system to be reviewed on an annual basis. Designated legal custodians shall have full legal authority to render decisions and to carry out the duties of an authority under Subchapter II, Chapter 19, Wis. Stats., and this Section.

SEC. 3-3-4 PUBLIC ACCESS TO RECORDS.

- (a) Except as provided in Section 3-3-6 any person has a right to inspect a record and to make or receive a copy of any record of provided in Sec. 19.35(1), Wis. Stats.
- (b) Records will be available for inspection and copying during all regular office hours.
- (c) If regular office hours are not maintained at the location where records are kept, the records will be available for inspection and copying upon at least forty-eight (48) hours' advance notice of intent to inspect or copy.
- (d) A requester shall be permitted to use facilities comparable to those available to City employees to inspect, copy or abstract a record.
- (e) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.
- (f) The cost of photocopying shall be determined by the City Clerk, said cost to be calculated not to exceed the actual, necessary, and direct cost of reproduction.
 - (1) If the form of a written record does not permit copying, the actual and necessary cost of photographing and photographic processing shall be charged.
 - (2) The actual full cost of providing a copy of other records not in printed form on paper, such as films, computer printouts and audio- and videotapes, shall be charged.
 - (3) If mailing or shipping is necessary, the actual cost thereof shall also be charged.
 - (4) There shall be no charge for locating a record unless the actual cost therefor exceeds Fifty Dollars (\$50.00), in which case the actual cost shall be determined by the legal custodian and billed to the requester.
 - (5) The legal custodian shall estimate the cost of all applicable fees and shall require a cash deposit adequate to assure payment, if such estimate exceeds Five Dollars (\$5.00).
 - (6) Elected and appointed officials of the City shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
 - (7) The legal custodian may provide copies of a record without charge or at a reduced charge where he or she determines that waiver or reduction of the fee is in the public interest.
- (g) Pursuant to Sec. 19.34, Wis. Stats., and the guidelines therein listed, each authority shall adopt, prominently display and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby, the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This Subsection does not apply to members of the Common Council.

SEC. 3-3-5 ACCESS PROCEDURES.

- (a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record or the information requested. However, a request for a record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under Sec. 19.37, Wis. Stats. Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail, unless prepayment of a fee is required under Section 3-3-4(f)(6). A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or federal law or regulations so require.
- (b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the City Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his or her request in a manner which would permit reasonable compliance.
- (c) A request for a record may be denied as provided in Section 3-3-6. If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within five business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that, if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under Sec. 19.37(1), Wis. Stats., or upon application to the attorney general or a district attorney.

SEC. 3-3-6 LIMITATIONS ON RIGHT TO ACCESS.

- (a) As provided in Sec. 19.36, Wis. Stats., the following records are exempt from inspection under this Chapter.
 - (1) Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law;
 - (2) Any record relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state;
 - (3) Computer programs and files, although the material used as input for a computer program/file or the material produced as a product of the computer program is subject to inspection; and
 - (4) Pursuant to Sec. 905.08, Wis. Stats., a record or any portion of a record containing information qualifying as a common law trade secret. "Trade secrets" are defined as unpatented, secret, commercially valuable plans, appliances, formulas, or processes which are used for making, preparing, compounding, treating or processing articles, materials or information which are obtained from a person and which are generally recognized as confidential.

- (b) As provided by Sec. 43.30, Wis. Stats., public library circulation records are exempt from inspection under this Section.
- (c) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the City Attorney, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:
 - (1) Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
 - (2) Pursuant to Sec. 19.85(1)(a), Wis. Stats., records of current deliberations after a quasi-judicial hearing.
 - (3) Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
 - (4) Pursuant to Sec. 19.85(1)(d), Wis. Stats., records concerning current strategy for crime detection or prevention.
 - (5) Pursuant to Sec. 19.85(1)(e), Wis. Stats., records of current deliberations or negotiations on the purchase of City property, investing of City funds, or other City business whenever competitive or bargaining reasons require nondisclosure.
 - (6) Pursuant to Sec. 19.85(1)(f), Wis. Stats., financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
 - (7) Pursuant to Sec. 19.85(1)(g), Wis. Stats., communications between legal counsel for the City and any officer, agent or employee of the City, when advice is being rendered concerning strategy with respect to current litigation in which the City or any of its officers, agents or employees is or is likely to become involved, or communications which are privileged under Sec. 905.03, Wis. Stats.
 - (8) Pursuant to Sec. 19.85(1)(h), Wis. Stats., requests for confidential written advice from an ethics board, and records of advice given by such ethics board on such requests.
- (d) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the City Attorney prior to releasing any such record and shall follow the guidance of the City Attorney when separating out the exempt material. If, in the judgment of the custodian and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

SEC. 3-3-7 DESTRUCTION OF RECORDS.

- (a) City officers may destroy the following nonutility financial records of which they are the legal custodians and which are considered obsolete, after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes,

but not less than seven (7) years after payment or receipt of any sum involved in the particular transaction, unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such shorter period:

- (1) Bank statements, deposit books, slips and stubs.
 - (2) Bonds and coupons after maturity.
 - (3) Canceled checks, duplicates and check stubs.
 - (4) License and permit applications, stubs and duplicates.
 - (5) Payrolls and other time and employment records of personnel included under the Wisconsin Retirement Fund.
 - (6) Receipt forms.
 - (7) Special assessment records.
 - (8) Vouchers, requisitions, purchase orders and all other supporting documents pertaining thereto.
- (b) City officers may destroy the following utility records of which they are the legal custodians and which are considered obsolete after completion of any required audit by the bureau of municipal audit or an auditor licensed under Chapter 442 of the Wisconsin Statutes, subject to State Public Service Commission regulations, but not less than seven (7) years after the record was effective unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period, except that water stubs, receipts of current billings and customers' ledgers may be destroyed not less than two (2) years after payment or receipt of the sum involved or the effective date of said record.
- (1) Contracts and papers relating thereto.
 - (2) Excavation permits.
 - (3) Inspection records.
- (c) City officers may destroy the following records of which they are the legal custodian and which are considered obsolete, but not less than seven (7) years after the record was effective unless another period has been set by statute, and then after such a period, or unless a shorter period has been fixed by the State Public Records Board pursuant to Sec. 16.61(3)(e), Wis. Stats., and then after such a shorter period.
- (1) Contracts and papers relating thereto.
 - (2) Correspondence and communications.
 - (3) Financial reports other than annual financial reports.
 - (4) Justice dockets.
 - (5) Oaths of office.
 - (6) Reports of boards, commissions, committees and officials duplicated in the Common Council proceedings.
 - (7) Election notices and proofs of publication.
 - (8) Canceled voter registration cards.
 - (9) Official bonds.
 - (10) Police records other than investigative records.
 - (11) Resolutions and petitions, providing the text of the same appears in the official City minutes.
 - (12) Assessment rolls.
- (d) Notwithstanding the above provisions appearing in this Section, it is intended hereby that election materials may be destroyed according to lesser time schedules as made and provided in Sec. 7.23, Wis. Stats.

- (e) Unless notice is waived by the State Historical Society, at least sixty (60) days' notice shall be given the State Historical Society and the City Administrator prior to the destruction of any record as provided by Sec. 19.21(4)(a), Wis. Stats.
- (f) Any tape recordings of a governmental meeting of the City may be destroyed, erased or reused no sooner than ninety (90) days after the minutes of the meeting have been approved and Public Records published, if the purpose of the recording was to make minutes of the meeting.

SEC. 3-3-8 PRESERVATION THROUGH MICROFILM.

Any City officer or the director of any department or division of City government may, subject to the approval of the City Clerk, keep and preserve public records in his or her possession by means of microfilm or other photographic reproduction method. Such records shall meet the standards for photographic reproduction set forth in Sec. 16.61(7)(a) and (b), Wis. Stats., and shall be considered original records for all purposes. Such records shall be preserved along with other files of the department or division and shall be open to public inspection and copying according to the provisions of state law and of Sections 3-3-4 through 3-3-6 of this Chapter.

CHAPTER 4
Disposal of Surplus Property

- 3-4-1 Disposal of Surplus City Property
- 3-4-2 Lost and Abandoned Property (Amended 12/09/97 Ord. RC-22)

SEC. 3-4-1 DISPOSAL OF SURPLUS CITY PROPERTY.

(a) **Definitions.**

- (1) "Surplus City Property" is that property which is owned by the City of Delavan and which has no further usefulness to the City. An item of property shall be considered to have no further usefulness when:
 - a. The item or its function has been totally replaced by other City property and no probable future function exists for it; or
 - b. The City no longer performs the service for which the item was purchased and no other service can reasonably be provided by the item; or
 - c. The item is no longer able to reliably or economically perform the work required of it.
- (2) Surplus property as defined in this Chapter shall not include land or buildings but shall include fixtures and such salvage as may be taken from a building without structural damage when such fixtures and salvage are not part of a demolition contract. Surplus City property shall not include property which is obtained by the City as a result of abandonment or loss by the property's original owner. Surplus City property shall not include items of property which are traded in for newer items. Surplus City property shall not include library materials used by the public library for lending purposes.

(b) **Determination of Surplus City Property.**

- (1) Whenever an item of City property is determined to be surplus City property on the basis that the City no longer performs the service for which the item was purchased, the Common Council shall determine whether or not the item is surplus City property.
- (2) Whenever the fair market value of the item is more than Five Hundred Dollars (\$500.00), the Common Council shall determine whether or not the item is surplus City property.

(c) **Disposition of Surplus City Property.**

- (1) Whenever the Common Council determines that an item of property is surplus City property, it shall dispose of such property as it determines.
- (2) Whenever the fair market value of an item is more than Five Hundred Dollars (\$500.00) and the Common Council has determined, pursuant to the previous Subsection, that the item is surplus City property, the department head responsible for the items shall dispose of the property by:
 - a. Donation to a nonprofit organization within the City or to a governmental agency; or
 - b. Public auction; or
 - c. Sale by sealed bid; or
 - d. Negotiated sale.
- (3) In the event of a public auction or sale by sealed bid, the item will be sold in "as-is" condition to the person submitting the highest bid provided, however, that a lower bid submitted by a nonprofit organization or governmental agency may be accepted by the Common Council. The department head responsible for the item shall determine the time in which the successful bidder must remove the item. In the event the item is not removed within that time, the item shall revert to the City and the amount of the bid shall be forfeited

to the City. In the event no bids are received, the item shall be disposed of as directed by the Common Council.

- (4) No public auction or awarding of bids shall occur under this Chapter unless a description of the item to be sold and an advance notice of the time and place for such auction or bid submission is first published as a Class 2 notice in the official City newspaper.
- (5) Whenever the fair market value of an item is Five Hundred Dollars (\$500.00) or less and the Common Council has determined, pursuant to the previous Section, that it is surplus City property, the item shall be either disposed of as set forth in Subsection (c)(2) above or destroyed.
- (d) **Determination of Fair Market Values.** Whenever this Chapter requires a determination of the fair market value of an item of property, that determination shall be made by the department head responsible for the property, whose decision shall be final.
- (e) **Authority to Dispose of Property.**
 - (1) Except for library materials used by the public library for lending purposes, only the Common Council may dispose of City property which is not surplus City property.
 - (2) Whenever this Section provides for an auction or other disposition of any property, the Common Council shall be authorized to hire an auctioneer or take such other action as is necessary to properly dispose of the property provided, however, that the fees of such auctioneer and all such costs, other than those for City labor and the use of City property, do not exceed the payment received by the City from the auction or sale of the property.

SEC. 3-4-2 LOST AND ABANDONED PROPERTY.

- (a) Property which appears to be lost or abandoned, discovered by officers or turned into the Police Department by citizens, shall be disposed of according to this Section.
- (b) Lost and abandoned property will be examined by the Police Department for identifying marks in an attempt to determine the owner. If identifying marks are present, they shall be used by the Police Department to attempt to contact the owner to return the property. If no identifying marks are present, the property shall be turned over to the Police Department evidence room and logged in per Department policy.
- (c) No police officer shall keep for his or her own use property found in the course of duty, nor take possession of property during off-duty hours when the discovery was made while on duty.
- (d) The Police Department shall permit citizens to claim lost property if they can provide sufficient proof that they are the rightful owners.
- (e)
 - (1) Pursuant to Sec. 66.0139, Wis. Stats., the City may hold an annual auction to dispose of any property which has been abandoned or which remained unclaimed for a period of thirty (30) days after having been taken into possession by the Police Department. If the property is usable for the City operations, the property need not be sold at auction but may become property of the City. If the property is not saleable or is not sold at auction, the property may either be destroyed, junked, given to a charitable or religious organization, or otherwise given away or disposed of at the discretion of the appropriate City department head; or (amended 12/9/97 Ordinance RC-22)
 - (2) The Police Department shall post a public notice at the Police Department. The notice shall be in the same form as required for disposal of abandoned vehicles as set down by Sec. 342.40, Wis. Stats.

Disposal of Lost, Abandoned, and Surplus Property

- (f) No member of the Police Department or any other City employee shall receive any lost, stolen, abandoned, or unclaimed property from the Police Department, unless that person receives a written receipt signed by the Chief of Police, a copy of which shall remain at the Police Department.

CHAPTER 5

Hotel-Motel Room Tax

3-5-1	Definitions
3-5-2	Tax Imposed
3-5-3	Treasurer to Administer
3-5-4	Application
3-5-5	Liability on Sale of Business
3-5-6	Audits
3-5-7	Failure to File Return
3-5-8	Violations
3-5-9	Delinquent Taxes
3-5-10	Security
3-5-11	Returns Confidential
3-5-12	Penalty

SEC. 3-5-1 DEFINITIONS.

The following definitions shall be applicable in this Chapter:

- (a) **Hotel or Motel** means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges, and cabins and any other building or group of buildings in which accommodations are available to the public irrespective of whether membership is required for use of the accommodations, except accommodations rented for a continuous period of more than one (1) month and accommodations furnished by any hospitals, sanitariums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.
- (b) **Gross Receipts** has the meaning as defined in Sec. 77.51(11)(a), (b) and (c), Wis. Stats., insofar as applicable.
- (c) **Transient** means any person residing for a continuous period of less than one (1) month in a hotel, motel or other furnished accommodations available to the public.

SEC. 3-5-2 TAX IMPOSED.

- (a) Pursuant to Sec. 66.0615, Wis. Stats., and effective upon the effective date of the "room tax ordinance" or, concurrently with the effective date of an ordinance enacted by the City of Delavan annexing that certain resort property known as Lake Lawn Lodge, located on Delavan Lake and, previous thereto, in the Township of Delavan, whichever shall last occur, a tax is hereby imposed on the privilege and service of furnishing, at retail, of rooms or lodging to transients by hotel keepers, motel operators, bed and breakfast operators, and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for the use of the accommodations. Such tax shall not be subject to the selective sales tax imposed by Sec. 77.52(2)(a)1., Wis. Stats.

- (b) Through December 31, 1993, such tax is and shall be at a rate of five percent (5%) of the gross receipts from such retail furnishing of rooms or lodging. The proceeds of such tax collected shall be apportioned as follows: Two percent (2%) thereof shall be allowed for administration to the party taxed and filing the return required hereunder, and ninety-eight (98%) to the City.
- (c) Commencing January 1, 1994, such tax shall be at a rate of six percent (6%) of the gross receipts from such retail furnishing of rooms and lodging. The proceeds of such tax collected shall be apportioned as follows: Two percent (2%) thereof shall be allowed for administration to the party taxed and filing the return required hereunder, and ninety-eight percent (98%) to the City.
- (d) Commencing January 1, 2002, such tax shall be at a rate of eight percent (8%) of the gross receipts from such retail furnishings of rooms and lodging. The proceeds of such tax collected shall be apportioned as follows: Two percent (2%) of the proceeds thereof shall continue to be allowed for administration to the party taxed and filing the return required hereunder, and ninety-eight percent (98%) to the City.
 - (1) Of the additional two percent (2%), seventy percent (70%) shall be used on tourism promotion and development and twenty-eight percent (28%) shall be used for whatever purpose(s), if any, the Common Council may from time to time designate. (Created 10/9/01 Ord. RC-124) (b,c,d, repealed & recreated 12/10/02, Ord. RC 154)

SEC. 3-5-3 TREASURER TO ADMINISTER.

This Chapter shall be administered by the City Treasurer. The tax imposed for each first calendar quarter and for each calendar quarter thereafter is due and payable on the last day of the month next succeeding the calendar quarter for which imposed. A quarterly return shall be filed with the Treasurer by those furnishing at retail such rooms and lodging on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms or lodging, the amount of taxes imposed for such period, and such other information as the Treasurer deems necessary. [Provisions relating to "calendar quarter" shall apply to an initial partial calendar quarter following the effective date, should it be less than a full three (3) month period]. Every person required to file such quarterly return shall, with his first return, elect to file an annual calendar year or fiscal year return. Such annual return shall be filed within ninety (90) days of the close of each such calendar or fiscal year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns and shall contain such other additional information as the Treasurer requires. Such annual returns shall be made on forms as prescribed by the City Treasurer. All such returns shall be signed by the person required to file a return for his duly authorized agent, but need not be verified by oath. The Treasurer may, for good cause, extend the time for filing any return, but in no event longer than one (1) month from the filing date.

SEC. 3-5-4 ISSUANCE OF PERMIT.

- (a) Every person furnishing rooms or lodging shall file with the Treasurer an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the Treasurer and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the Treasurer requires.

The application shall be signed by the furnisher of rooms/lodging, if a sole proprietor or, if not a sole proprietor, by the person authorized to act on behalf of such applicant. At the time of making an application, the applicant shall pay to the Treasurer a fee of Twenty Dollars (\$20.00) for each permit.

- (b) After compliance with Subsection (a) above and Section 3-5-10(b) by the applicant, the Treasurer shall grant and issue to each applicant a separate permit for each place of business within the City. Such permit is not assignable and is valid only for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.
- (c) Whenever any person fails to comply with this Subchapter, the Treasurer may, upon ten (10) days' notification and, after affording such person the opportunity to show cause why his permit should not be revoked, revoke or suspend any or all of the permits held by such person. The Treasurer shall give to such person written notice of the suspension or revocation of any of his permits. The Treasurer shall not issue a new permit after the revocation of a permit unless satisfied that the former holder of the permit will comply with the provisions of this Section. A fee of Forty Dollars (\$40.00) shall be imposed for the renewal or issuance of a permit which has been previously suspended or revoked. .

SEC. 3-5-5 LIABILITY ON SALE OF BUSINESS.

If any person liable for any amount of tax under this Chapter sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Treasurer that has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this Chapter fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him to the extent of the price of the accommodations valued in money.

SEC. 3-5-6 AUDITS.

The City Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this Chapter. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the City Treasurer's possession. The City Treasurer is authorized to examine and inspect the books, records, memoranda, and property of the person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the City Treasurer from making a determination of tax at any time.

SEC. 3-5-7 FAILURE TO FILE RETURN.

- (a) If any person liable for any amount of tax under this Chapter sells out his business or stock of goods or quits the business, his successors or assignees shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the Treasurer that it has been paid or a certificate stating that no amount is due. If a person hereby made subject to the tax imposed by this Section fails to withhold such amount of tax from the purchase price as required, he shall become personally liable for payment of the amount required to be withheld by him based upon the price of the accommodations valued in money.

- (b) The Treasurer may, by office audit, determine the tax required to be paid to the City or the refund due to any person under this Section. This determination may be made upon the basis of the facts contained in the return being audited or on the basis of any other information within the City Treasurer's possession. One (1) or more such office audit determinations may be made of the amount due for any one (1) or for more than one (1) period.
- (c) The Treasurer may, by field audit, determine the tax required to be paid to the City or the refund due to any person under this Subchapter. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Treasurer's possession.

SEC. 3-5-8 VIOLATIONS.

- (a) If any person fails to file a return as required by this Subchapter, the Treasurer shall make an estimate of the amount of the gross receipts under Section 3-5-2. Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Treasurer's possession or may come into his possession. On the basis of this estimate, the Treasurer shall compute and determine the amount required to be paid to the City, adding to the sum thus arrived at a penalty equal to ten percent (10%) thereof. One (1) or more such determinations may be made for one (1) or more than one (1) period.
- (b) All unpaid taxes under this Chapter shall bear interest at the rate of fifteen percent (15%) per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the Treasurer. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation.

SEC. 3-5-9 DELINQUENT TAXES.

Delinquent tax returns shall be subject to a Ten Dollar (\$10.00) late filing fee. In addition, should it be determined by the Treasurer that any of the following are the case due to negligence: no return is filed, a return is filed late, or that an incorrect return is filed; then, and in such circumstance(s), the entire tax finally determined shall be subject to a penalty of twenty-five percent (25%) of the tax exclusive of interest or other penalties. If a person fails to file a return when due or files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this Subchapter, a penalty of fifty percent (50%) shall be added to the tax required to be paid, exclusive of interest and other penalties.

SEC. 3-5-10 SECURITY.

- (a) In order to protect the revenue of the City, the Common Council, upon inquiry or request of it by the Treasurer, may require any person liable for the tax imposed by this Chapter to place with the Treasurer, before or after a permit is issued, security in the form of cash or corporate bond in an amount not to exceed the highest quarterly payment of the previous year's return (if such performance record exists) or, lacking such previous performance record, in such other amount as the Council may set, but not to exceed Five Thousand Dollars (\$5,000.00). If any taxpayer fails or refuses to place such security, the Treasurer may refuse or revoke such permit. If any taxpayer is delinquent in the payment of any taxes imposed by this Subchapter, the Treasurer may, upon ten (10) days' notice, recover the taxes, interest and penalties from the security placed with the Treasurer by such taxpayer. No interest shall be paid or allowed by the City to any person for the deposit of such security.

- (b) Every person liable for the tax imposed by this Chapter shall keep or cause to be kept such as records, receipts, invoices and other pertinent papers in such form as the City Treasurer requires.

SEC. 3-5-11 RETURNS CONFIDENTIAL.

- (a) All tax returns, schedules, exhibits, writings or audit reports relating to such returns on file with the City Treasurer may divulge their contents to the following and no others:
 - (1) The person who filed the return.
 - (2) Officers, agents or employees of the Federal Internal Revenue Service or the State Department of Revenue.
 - (3) Officers, employees, or agents of the City Finance Committee.
 - (4) Such other public officials of the City when deemed necessary.
- (b) No person having administrative duty under this Chapter shall make known in any manner the business affairs, operations, or information obtained by this investigation of records of any person on whom a tax is imposed by this Chapter, or the amount or source of income, profits, losses, expenditures or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided herein.

SEC. 3-5-12 PENALTY.

Any person who is subject to the tax imposed by this Chapter who fails to obtain a permit as required in Section 3-5-4, or who fails or refuses to permit the inspection of his records by the City Treasurer, or who fails to file a return as provided in this Chapter shall, upon conviction thereof, and in addition to any other penalty imposed herein, be subject to a forfeiture as prescribed by Section 1-1-7.

CHAPTER 6
(created 8/11/98 Ordinance RC-48)
Recovery of City Costs and Expenses

- 3-6-1 General Provisions (Amended 3/11/08 Ord. 245)
- 3-6-2 Applicant Certificate
- 3-6-3 Costs Recoverable (Amended 3/11/08 Ord. 245)
- 3-6-4 Billing of Costs (Amended 3/11/08 Ord. 245)
- 3-6-5 Condition of all Applications (Amended 3/11/08 Ord. 245)
- 3-6-6 Enforcement
- 3-6-7 Fees
- 3-6-8 Severability

3-6-1 GENERAL PROVISIONS: (Amended 3/11/08 Ord. 245)

In addition to any other fees required to be paid in conjunction with the filing of an application requesting any consideration on the part of the Common Council (hereinafter “Council”), the City Water and Sewer Commission (hereinafter “Water and Sewer Commission”), the City Plan Commission (hereinafter “Plan Commission”) the City Zoning Administrator or the City Board of Zoning Appeals (hereinafter “Board of Zoning Appeals”) to establish or modify any use of land within the City *involving zoning, rezoning, conditional uses, and special uses; variances and other appeals*; annexations; subdivision, including plat approval; developer agreements; utility cost agreements; *all matters of land division within the extraterritorial planning area; amendments to the zoning ordinance and comprehensive plan*; and all contracts or agreements related to any of the foregoing, the person, partnership or entity requesting such consideration (hereinafter “Applicant”) shall compensate the City for all costs and expenses the City incurs in the consideration of any such application or request. The obligation to compensate the City for its costs and expenses shall also extend to pre-submission discussions with the City or its representatives which precede an application to the City, if any.

3-6-2 APPLICANT CERTIFICATE. Before the City shall incur any costs or expense in consideration of any application as described in this ordinance, the Applicant shall sign an acknowledgment and certificate on a form to be made available by the City Clerk stating the Applicant’s responsibility for all City costs and expenses directly or indirectly related to the Applicant’s request. The original of said acknowledgment and certificate shall be kept on file with the City Clerk. A copy shall be given to the Applicant at the time of signing.

3-6-3 COSTS RECOVERABLE. (Amended 3/11/08 Ord. 245)

All costs incurred by the City in the consideration of any request by an Applicant to establish or modify any use of land within the City as described in Section 3-6-1 above shall be recoverable, including, without limitation by enumeration, the following:

- 1) All professional and technical consultant services and fees retained by the City and rendered in review of any application, including, but not limited to, the City Engineer, Planner, City Attorney or any other professional or expert hired by the City for purposes of review of the application or presubmission request.
- 2) Legal publication costs.
- 3) Court reporter costs, as deemed necessary by the City.
- 4) Copy reproduction.

- 5) Postage.
- 6) Telephone charges.
- 7) Fees and costs incurred by the City Building Inspector.
- 8) Document Recordation (if required).
- 9) *All professional services costs, particularly noted in subsection 1), 2), and 3) above shall be surcharged by 5% to cover administrative related costs of the City.*
- 10) Any other cost or expense incurred by the City.

3-6-4 BILLING OF COSTS. (Amended 3/11/08 Ord. 245)

The City Treasurer shall, on a monthly basis, bill all costs recoverable pursuant to this ordinance to the Applicant, which said costs shall be paid by Applicant within 30 days of receipt of the City's billing. The City Zoning Administrator or City Administrator may at any time require an Applicant to submit an advance deposit of \$500 to \$5,000 depending upon the complexity and anticipated involvement of the City's consultants or continuing advance deposits against future billings by the City for the recovery of costs provided by this ordinance. *An advanced deposit shall be required for applications related to extraterritorial matters.* Surplus deposits shall be returned to the Applicant at the conclusion of the project if such deposits exceed the amount of billings for recoverable costs. Any billed costs from the City unpaid at the expiration of said 30 day period shall bear interest at the rate of 18% per annum.

3-6-5 CONDITION OF ALL APPLICATIONS. (Amended 3/11/08 Ord. 245)

Notwithstanding anything in the City Municipal Code to the contrary, payment in full of all recoverable costs pursuant to this ordinance shall be a precondition to the final approval of any application as well as the issuance of any building, construction, *or occupancy* permits related to such application. This precondition shall extend to any Council request for an advance deposit against future billings for recoverable costs as called for herein.

3-6-7 ENFORCEMENT. In addition to any provision for enforcement contained in the City Municipal Code, in the event the City is not paid billed recoverable costs as called for herein, the City shall be entitled to recover all actual attorney fees, litigation expenses, witness fees, filing fees, expert witness fees and all other costs or expenses incurred by the City in the prosecution of a violation of this ordinance, regardless of whether the City prevails in such prosecution or not, or whether an action is filed or not.

3-6-8 FEES. In addition to any fees called for herein, a subdivider shall, in the course of submitting any land division for presubmission consideration or for review and action by the City, at all times comply with the provisions of § 3-6-1 of the City Municipal Code related to recovery of City costs and expenses.

3-6-9 SEVERABILITY: In the event any section, clause, paragraph, or phrase of this ordinance is deemed to be wholly or partially unenforceable by a court of law in a competent jurisdiction, the remaining sections of the ordinance shall remain in full force and effect.